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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,189	08/18/2003	Clifton Lind	988.1041	3668
35236	7590	09/21/2005	EXAMINER	
THE CULBERTSON GROUP, P.C.			NGUYEN, BINH AN DUC	
1114 LOST CREEK BLVD.				
SUITE 420			ART UNIT	PAPER NUMBER
AUSTIN, TX 78746			3713	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/643,189	LIND ET AL.
	Examiner	Art Unit
	Binh-An D. Nguyen	3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 March 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2 and 4-24 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2 and 4-24 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

The Amendment filed March 31, 2005 has been received. According to the Amendment, claim 3 has been canceled; and claims 1, 2, 4, 7, 9-11, 15, 16, 19-21, 23, and 24 have been amended. Currently, claims 1, 2, and 4-24 are pending in the application. Acknowledgment has been made.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7-12, 14, 15, and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Wain (4,335,809).

Referring to claims 1, 10, and 19, Wain teaches a gaming system and method (or computer program imbedded in a computer readable medium for performing the steps thereto) comprising: a number of gaming machines (Fig.1), each gaming machine including a respective game presentation arrangement capable of producing any one of a number of unrelated game presentations (2:11-21; 7:1-32); a **player monitoring arrangement** for producing system configuration commands based at least partially on a characteristic associated with a player (system detection of central control device (30)

detecting player selection input from each gaming machine (1), 7:13-45); a game modification controller in communication with the player monitoring arrangement and with each respective gaming machine, the game modification controller for receiving system configuration commands from the player monitoring arrangement and for communicating presentation switching instructions to one or more of the gaming machines in response to the system configuration commands, the presentation switching instructions causing the respective gaming machine to switch from a first game presentation to a second game presentation (5:27-6:67). **Note that, the amended limitation of “a player monitoring arrangement for producing system configuration commands based at least partially on a characteristic associated with a player” is interpreted as being anticipated by Wain such as central control device of Wain detects player input and response to the player input selection (7:37-45); further, the player game selection or player’s usage of game machine in Wain are considered as a characteristic associated with the player.**

Referring to claims 2, 7, 8, 12, and 21 Wain teaches system a manual interface through which configuration commands may be manually initiated; receiving manual system configuration inputs through a system management interface; system management interface program code for producing an interface for receiving manual system configuration inputs and producing the system configuration command in response to the manual system configuration inputs (6:12-47; 4:54-5:11; 7:37-45); player monitoring arrangement includes a player preference tracking controller for producing configuration commands based at least partially upon actual preferences for

one or more players in a gaming facility including one or more gaming machines (depending on players' game machine usage level and types of games selected)(7:13-22); a player data collection arrangement for making individual player-related data available to the player preference tracking controller (tracking machine usage from player);

Referring to claim 9, Wain teaches player monitoring arrangement includes a player interface controller for producing configuration commands based at least partially upon a player's response to an inquiry displayed at a respective one of the gaming machines used by the player, the inquiry being displayed in response to a communication directed by the player interface controller (7:1-32). Note that, the limitation of "a player's response to an inquiry displayed at a respective one of the gaming machines used by the player" is equivalent to Wain's teaching of selecting one of the games to be played from ones of the game machines.

Referring to claims 11, 12, 14, and 15 Wain teaches producing presentation switching instructions in response to the system configuration command and communicating the presentation switching instructions to the one or more gaming machines to effect switching the a first game presentation at one or more gaming machines in the system to the second game presentation (6:33-50); transmitting gaming information to a particular player using one of the gaming machines through the respective gaming machine; receiving a player response from the player; and producing the system configuration command based at least partially upon the player response from the player (3:17-29); wherein the step of transmitting gaming information includes

transmitting information on a second game presentation, and providing the particular player an opportunity to select the second game presentation (after switched game);

Referring to claims 20, 22, and 23, Wain teaches wherein the presentation switching program code include presentation switching instruction program code for producing presentation switching instructions in response to the system configuration command and transmitting the presentation switching instructions to the one or more gaming machines to effect the switch from the first game presentation to the second game presentation (6:33-7:23); player location controller program code for producing the system configuration command based at least partially upon player location information; player interaction program code for transmitting gaming information to a particular player using one of the gaming machines, receiving a player response from the player, and producing the system configuration command based at least partially upon the player response from the player (5:21-7:45).

7. Claims 1, 2, 4 and 7-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Itkis (4,856,787).

Referring to claims 1, 10, and 19, Itkis teaches a gaming system and method (or computer program imbedded in a computer readable medium for performing the steps thereto) comprising: a number of gaming machines (Fig.1), each gaming machine including a respective game presentation arrangement capable of producing any one of a number of unrelated game presentations (2:4-27); a player monitoring arrangement for producing system configuration commands based on at least partially on a

characteristic associated with a player (player preferred game or game level); a game modification controller in communication with the player monitoring arrangement and with each respective gaming machine, the game modification controller for receiving system configuration commands from the system configuration arrangement and for communicating presentation switching instructions to one or more of the gaming machines in response to the system configuration commands, the presentation switching instructions causing the respective gaming machine to switch from a first game presentation to a second game presentation (playing different games, i.e., poker, bingo, keno).

Referring to claims 2, 4, 7, 8, 12, 21, and 22 Itkis teaches the system configuration arrangement includes a manual interface through which configuration commands may be manually initiated; producing the system configuration command includes receiving manual system configuration inputs through a system management interface (1:41-53;2:4-27; 2:48-51); system management interface program code for producing an interface for receiving manual system configuration inputs and producing the system configuration command in response to the manual system configuration inputs (operator inputs)(Fig.6; 4:16-46); player monitoring arrangement includes: a player location tracking controller (smart card reader)(1:54-2:3) for producing configuration commands based at least partially upon the location of a player; and a player location determining arrangement for determining the location of the player in a gaming facility including one or more of the gaming machines; the player monitoring arrangement includes a player preference tracking controller for producing configuration

commands based at least partially upon actual or postulated player preferences (game type or game level) for one or more players in a gaming facility including one or more gaming machines; a player data collection arrangement for making individual or group player-related data available to the player preference tracking controller;

Referring to claims 9, Itkis teaches player monitoring arrangement includes a player interface controller (via card reader) for producing configuration commands based at least partially upon a player's response to an inquiry displayed at a respective one of the gaming machines used by the player, the inquiry being displayed in response to a communication directed by the player interface controller (Fig.5). Note that, the limitation of "a player's response to an inquiry displayed at a respective one of the gaming machines used by the player" is equivalent to Itkis's teaching of selecting one of the games to be played from ones of the game machines.

Referring to claims 11, 13-18, Itkis teaches producing presentation switching instructions in response to the system configuration command and communicating the presentation switching instructions to the one or more gaming machines to effect switching the first game presentation at one or more gaming machines in the system to the second game presentation (3:13-34); producing location information indicating the location of one or more players in a gaming facility including one or more of the gaming machines; and producing the system configuration command based at least partially upon the location information (via smart card reader); transmitting gaming information to a particular player using one of the gaming machines through the respective gaming machine; receiving a player response from the player; and producing the system

configuration command based at least partially upon the player response from the player; transmitting gaming information includes transmitting information on a second game presentation, and providing the particular player an opportunity to select the second game presentation; receiving player preference data associated with the player; and producing the system configuration command based at least partially upon the player preference data; receiving player profile data for a player profile matched by the player; receiving historical system activity data collected for the player (5:15-32).

Referring to claims 20, 23, and 24, Itkis teaches switching instruction program code for producing presentation switching instructions in response to the system configuration command and transmitting the presentation switching instructions to the one or more gaming machines to effect the switch from the first game presentation to the second game presentation (3:13-45); player interaction program code for transmitting gaming information for a particular player to one of the gaming machines, receiving a player response from the player, and producing the system configuration command based at least partially upon the player response from the player (5:15-60); and player preference controller program code for accessing player preference data associated with a player and producing the system configuration command based at least partially upon the player preference data (2:4-27; 4:16-6:11).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis as applied to claims 1-4 above, and further in view of Sizer et al. (5,923,252).

Itkis teaches all limitations of claims 1-4. Itkis does not explicitly teach the limitations of player location determining arrangement includes a signal reading device for remotely reading identifying information carried by the player or remotely receiving identifying signals originating from a device carried by the player (claim 5); a number of signal reading devices for remotely receiving identifying signals originating from a device carried by the player; and a signal timing analyzing device for analyzing the timing between the identifying signals received by the number of signal reading devices to determine the location of the player (claim 6).

Sizer et al., however, teaches a detection system comprising a player location determining arrangement includes a signal reading device for remotely reading identifying information carried by the player or remotely receiving identifying signals originating from a device carried by the player (6:4-17); a number of signal reading devices for remotely receiving identifying signals originating from a device carried by the player; and a signal timing analyzing device for analyzing the timing between the identifying signals received by the number of signal reading devices to determine the location of the player (6:18-46).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide the wireless detection system of Sizer et al. to the

gaming network of Itkis to instantly detect game player in the area to provide gaming advertisement to the player faster and more effective that would attract more game players to play game, thus bring forth profits.

### ***Response to Arguments***

Applicant's arguments filed March 31, 2005 have been fully considered but they are not persuasive.

**The applicant argued that Wain patent does not teach or suggest any player monitoring arrangement for producing system configuration commands based at least on a characteristic associated with a player** (applicant's remarks, pages 12-13). The examiner respectfully disagreed. Wain teaches an interactive game which detects player's game selection and player's game usage, a detected interaction from the player are considered as a characteristic associated with the player. Note that, the applicant broadly claimed "a characteristic associated with the player" and does not further define the characteristic in the claims, therefore, it is broadly interpreted as any interactive feature associated with the player. Further, Wain's teaching of player interaction detection is equivalent to the claimed player monitor arrangement.

**The applicant argued that Itkis patent does not teach or suggest any player monitoring arrangement for producing system configuration commands based at least on a characteristic associated with a player** (applicant's remarks, pages 14-16). The examiner respectfully disagreed. Itkis teaches an interactive game which detects player's game selection, player's game usage, and player preference, and any detected

interaction with the game machine from the player is considered as a characteristic associated with the player. Since the applicant broadly claimed "a characteristic associated with the player" and does not further define the characteristic in the claims, therefore, it is broadly interpreted as any interactive feature associated with the player. Further, Itkis's teaching of player interaction detection and/or player tracking is equivalent to the claimed player monitor arrangement.

**In response to applicant's argument that there is no suggestion to combine the references of Itkis and Sizer** (applicant's remarks, pages 14-16), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Itkis teaches a concurrent game network comprising master game device and a number of slave game devices, wherein each of the slave devices is capable of playing concurrently a number of menus selectable card and chance games; further, Sizer teaches a game detection system wherein information carried by a game player is remotely detected. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide the wireless detection system of Sizer et al. to the gaming network of Itkis to instantly detect game player in the area to provide gaming advertisement to the player faster and more effective that would attract more game players to play game, thus bring forth profits.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hedrick et al. (6,135,884) teaches a gaming system that provides attraction materials to game players.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

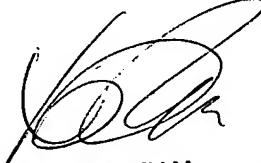
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BN

  
XUAN M. THAI  
SUPERVISORY PATENT EXAMINER  
